

Exhibit B

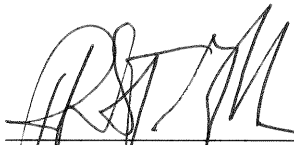
**THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

TAMMY KITZMILLER, et al.,)	
)	
Plaintiffs,)	Case No. 04-CV-2688
)	(Hon. Judge Jones)
v.)	
)	
DOVER AREA SCHOOL DISTRICT and)	
DOVER AREA SCHOOL DISTRICT)	
BOARD OF DIRECTORS,)	
)	
Defendants.)	

DEFENDANTS EXHIBIT LIST

Attached is a list of exhibits that the Defendants may use in this action. In addition to the documents listed, Defendants reserve the right to use other documents for purposes of rebuttal, cross examination or refreshing recollection.

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 210 Kenneth J. Miller, Deposition Exhibit #10
 211 Kenneth J. Miller, Deposition Exhibit #11
 212 Miller and Levine Text, 1998
 213 Miller and Levine Text, 2002
 214 Miller and Levine Text, 2004
 215 *Modern Biology* (Holt, Reinhardt, Winston, 2002)
 216 *Biology Dynamics of Life* (Glencoe Science, 2004)
 217 *Biology: Exploring Life* (Prentice Hall, 2004)
 218 *Biology for Christian Schools* (Bob Jones University, edition
 unknown as text was rejected by Mike Baksa based on short
 description)
 219 *Biology: Living Systems* (Glencoe Sciences. 2003)
 220 *Of Pandas and People*
 221 *Intelligent Design Creationism and Its Critics*, ed. Robert t.
 Pennock
 222 *Evolution*, ed. Mark Ridley
 223 *Finding Darwin's God*, Kenneth R. Miller
 224 *The Ancestor's Tale*, Richard Dawkins
 225 *Tower of Babel*, Robert T. Pennock
 226 *Evolution: The Triumph of an Idea*, Carl Zimmer
 227 DVD: *Icons of Evolution: The Growing Scientific Controversy*
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 228 DVD: *Unlocking the Mystery of Life: The Scientific Case for*
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 229 Jonathan Wells, "Icons of Evolution: Science or Myth? Why
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 230 DASD Curriculum Policies
 231 Tape of 10/18/04 meeting
 232 C. Brown, Ex. #1-3
 233 PA Board of Education Academic Standards for Science and
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 234 Statement of Sen. Rick Santorum upon passage of the No Child
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 235 Conference Report of No Child Left Behind Act (2001)
 236 McNab, R.M., "The Bacterial Flagellum: Reversible Rotary
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 237 Saier, M.H., Jr., "Evolution of Bacterial Type III Protein
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 238 Nguyen, L., Paulsen, I.T., Tchieu, J., Hueck, C.J., and Saier,
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 239 Galan, J.E. and Collmer, A., "Type III Secretion Machines:
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 240 Warren Nord, Expert Report
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- 242 Steve William Fuller, Expert Report
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- 244 Dick M. Carpenter II, Expert Report
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- 248 Michael J. Behe, Expert Report
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- 250 Behe, Michael and David W. Snoke, "Simulating Evolution By
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- 251 Woese, Carl, "A New Biology for a New Century"
- 252 Lenski, et. Al, "The Evolutionary Origin of Complex Features"
- 253 Alberts, B., The Cell Is a Collection of Protein Machines:
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- 254 Minnich, Scott and Stephen Meyer, "Genetic Analysis of
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- 255 Conway, S.C., Evolution: Bringing Molecules Into the Fold"
- 256 Benn Law Firm memo, re: correspondence between A. Bonsell
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- 257 Losick and Shaprio, "Changing Views on the Nature of the
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- 258 Sanders LA, Van Way S, Mullin DA, Characterization of the
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- 259 Zhuang WY, Shapiro, L., Caulobacter FliQ and FliR Membrane
Proteins Required for Flagellar Biogenesis and Cell Division,
Belong to a Family of Virulence Factor Export Proteins."
- 260 Weiner, Jonathon, "The Beak of the Finch" Vintage. New York,
NY, 1994 p. 258
- 261 Quammen, D. "Was Darwin Wrong?" National Geographic
206:2-35
- 262 Reynolds, MG, 2000. Compensatory Evolution in Rifampin-
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- 263 Polkinghorn, J. 1998. "Belief in God in an Age of Science."
Yale University Press
- 264 Behe, Michael J., "Recapitulations: Behe Responds"
- 265 Maddox, John, "Down with the Big Bang"
- 266 Thornhill, Richard H. and David W. Ussery, "A Classification of
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- 267 "How Did Life Begin?: An Interview With Andy Knoll"
- 268 Barton, NH and B. Charlesworth, "Why Sex and
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- 269 Wuethrich, Bernice, "Evolution of Sex: Putting Theory to the

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- 270 Kondrashov, AS, “Classification of Hypotheses on the
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- 271 Pennisi, Elizabeth, “Haekel’s Embryos: Fraud Rediscovered”
- 272 Doolittle, Russell F., “A Delicate Balance”
- 273 Shanks, Niall, and Karl H. Joplin, “Redundant Complexity: A
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- 274 DeRosier, David J., “The Turn of the Screw: The Bacterial
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- 275 Behe, Michael J. “The Argument for Intelligent Design in
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- 276 Dewey, J. “The Child and the Curriculum and the School and
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- 277 Petress, K., “What is Critical Thinking and Why is it Useful?”
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- 281 Fuller, Steve, “An Intelligent Persons Guide to Intelligent
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